

# MANDATE

E.D.N.Y. – Bklyn.  
22-cv-6300  
09-cr-466  
Cogan, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 5<sup>th</sup> day of November, two thousand twenty-four.

Present:

Robert D. Sack,  
Myrna Pérez,  
*Circuit Judges,*  
Dale E. Ho,  
*District Judge.\**

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Joaquin Archivaldo Guzman-Loera,

*Petitioner,*

v.

24-2160

United States of America,

*Respondent.*

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Petitioner moves for leave to file a successive 28 U.S.C. § 2255 motion. Upon due consideration, it is hereby ORDERED that the motion is DENIED.

To the extent that Petitioner repeats claims raised in a prior § 2255 proceeding, they must be dismissed. *See Gallagher v. United States*, 711 F.3d 315, 315 (2d Cir. 2013) (per curiam) (“We must dismiss a claim [in a motion for leave to file a successive § 2255 motion] that was presented in a prior motion under § 2255.”).

However, even if a court had not previously adjudicated his present claims, Petitioner has not made a prima facie showing that the requirements of § 2255(h) are satisfied. First, Petitioner has not shown that his claims are based on “newly discovered evidence that, if proven and viewed in light

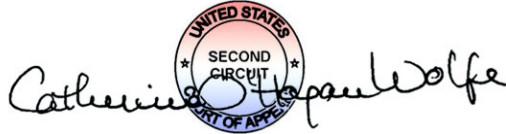
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\* Judge Dale E. Ho, of the United States District Court for the Southern District of New York, sitting by designation.

of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found [him] guilty.” 28 U.S.C. § 2255(h)(1). Second, Petitioner has also not made the alternate showing that his claims are based on “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” *Id.* § 2255(h)(2).

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is divided into two halves: the top half is red with the words "UNITED STATES" and "SECOND CIRCUIT" in white, and the bottom half is blue with the words "COURT OF APPEALS" in white. Two small white stars are positioned on either side of the seal.

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

This block contains a second instance of the handwritten signature "Catherine O'Hagan Wolfe" over the same circular official seal of the United States Court of Appeals, Second Circuit, as seen in the signature block above.